

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Fumihiko Nishio, et al.  
Serial No. : 09/700,610  
For : TRANSMITTING APPARATUS, RECEIVING  
APPARATUS, TRANSMITTING AND  
RECEIVING APPARATUS, TRANSMITTING  
METHOD, RECEIVING METHOD AND  
TRANSMITTING AND RECEIVING METHOD  
Filed : February 20, 2001  
Art Unit : 2623  
Examiner : Sheleheda, James R.  
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Shabana Ali-Arjun  
(Name of person signing transmittal)

[Signature]  
Signature

January 2, 2008  
Date of Signature

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action mailed on October 1, 2007 (and the  
Advisory Action mailed November 8, 2007) having a three-month period for response set to  
expire on January 2, 2008 (January 1, 2008 being a federal holiday), Applicants submit herewith

a Notice of Appeal and an electronic payment of \$510.00 as payment of the Appeal fee. Please consider following remarks.

## I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-24 are pending. Claims 1-3, 6, 7, 10-15 and 17-20 are independent claims.

## II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-24 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 99/01984 to Maissel, et al. (hereinafter, merely “Maissel”) in view of U.S. Patent No. 5,559,549 to Hendricks, et al. (hereinafter, merely “Hendricks”) and further in view of U.S. Patent No. 5,614,940 to Cobbley et al. (hereinafter, merely “Cobbley”).

## III. RESPONSE TO REJECTIONS

Claim 1 recites, *inter alia*:

“A transmitting apparatus for providing digital content, comprising:

**...meta information schema storing means for storing a meta information schema that defines the data structure of meta information about the content data according to the content data that is transmitted,**

**wherein attributes, whose applied frequencies are low as indicated by the use history information are deleted from said meta information schema.**” (Emphasis added)

The Office Action (pages 4-5) relies on Maissel to reject the above-identified features of claim 1. As understood by Applicants, Maissel relates to an intelligent agent for

customizing the program schedule information based, at least in part, on the viewer preference profile to produce a program guide.

Applicants submit that Maissel fails to disclose or suggest “wherein attributes, whose applied frequencies are low as indicated by the use history information, are deleted from said meta information schema”, as recited in claim 1 (emphasis added). As claimed, if attributes, (not programs) are not used, the attributes are deleted. Maissel, on the other hand, develops a user-profile based on programs, or types of programs a viewer prefers to view or prefers not to view. (See Maissel, page 19, lines 17-20).

The Office Action (page 5) relies on page 21, lines 1-5, page 18, lines 18-30 of Maissel to reject the above-identified features of claim 1. Specifically, the Office Action reads “programming not viewed and preferred by the user” as Applicants’ claimed attributes. Indeed, Applicants submit that Maissel describes a system in which **programs** that are not selected frequently are deleted. “[T]he viewer preference profile may contain information on preference strength, that is how strongly a certain program or type of program is preferred by the viewer.” (See Maissel page 19, lines 1-7)

Applicants submit that specific programs in the EPG, of Maissel, and attributes in the meta information schema, as claimed, are different elements.

Thus, while Maissel pertains to utilizing a user profile based on viewing preferences, the present claimed invention recites that **attributes, whose applied frequencies are low as indicated by the use history information are deleted from said meta information schema.** Therefore, Applicants submit that Maissel fails to render claim 1 obvious.

Applicants submit that Maissel, Hendricks, and Cobbley, taken alone or in combination, fail to disclose or suggest the above identified features in claim 1.

Therefore, Applicants respectfully submit that independent claim 1 is patentable.

Independent claims 2, 3, 6, 7, 10-15 and 17-20 are similar in scope and are patentable for similar reasons.

#### IV. DEPENDENT CLAIMS

The other claims are dependent from one of the independent claims, discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.


#### CONCLUSION

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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